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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,312	04/20/2004	Micheal S. Ripley	42P10449XC	5661

7590 01/17/2006

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EXAMINER

PORTKA, GARY J

ART UNIT	PAPER NUMBER
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2188

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/829,312

Applicant(s)

RIPLEY ET AL.

Examiner

Gary J. Portka

Art Unit

2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2004 and 19 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-17 have been canceled, and claims 18-29 have been added by Applicant. Claims 18-29 are pending.
2. Applicant is requested to update the status and patent numbers of the copending applications cited on page 2.

Claim Objections

3. Claims are objected to because of the following informalities: In claim 24 it is recited that a drive reads a value from a medium, then a host reads a block from the medium. It is unlikely that, as implied, the host and drive separately read the medium. It is assumed herein that the drive actually accesses the medium in each case. Appropriate correction or clarification is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 18-29 are rejected under 35 U.S.C. 102(a) as being anticipated by "Content Protection for Recordable Media Specification", XP-002167964 (hereinafter "CPRMS").
6. As to claims 18-24 and 27, CPRMS discloses a method for reading a MKB, reading a hash value (= related validation data), validating the MKB using the value, and

verification data field of the MKB. See chapters 3-6, in particular Figures 3-1 and 4-1, pages 3-4 and 4-4, and Figures 6-1 to 6-3.

7. As to claim 25, CPRMS discloses the calculation of first MAC, reader hash, second MAC, comparing MACs (see page 4-4, and Fig. 6-2), the first (drive) and second (host) devices, and hash and MAC calculations/verifications as recited (see Fig. 6-3); the additional limitations of medium with RO and writable areas, MKB, etc. are disclosed as cited hereinabove.

8. As to claims 26, 28, and 29, the limitations of DVD-RAM, DVD-R, DVD-RW, and narrow burst cutting area are disclosed as cited hereinabove.

9. Claims 18-24 and 26 are rejected under 35 U.S.C. 102(a) as being anticipated by the admitted prior art.

10. As to claims 18-24 and 26, the admitted prior art of the parent case, US Patent 6,738,878 B2, col. 1 lines 32-35 and col. 2 lines 9-16, discloses a method and system for reading a MKB and generating a media key therefrom, reading validation data (hash value read from read-only area), decrypting validation data using the media key (calculates the hash value of the MKB), where the validation of the MKB clearly grants access to the content. The media of the prior art includes DVD-RAM.

Double Patenting

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Art Unit: 2188

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. Claims 18-29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of US Patent 6,738,878 B2, claims 1-15 of US Patent 6,912,634 B2, and claims 1-60 of US Patent 6,957,343 B2. Claims 18-29 are also provisionally rejected over claims 1-19, 23, and 25 of copending Application No. 09/750,642. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are directed to identical subject matter, with only immaterial differences in language such as validation area versus read-only area, writing encrypted validation data versus reading and decrypting it, and verifying the MKB is valid versus granting access to the media. An artisan of ordinary skill in the art would have recognized that these are all equivalent recitation of the same basic limitations.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary J. Portka whose telephone number is (571) 272-4211. The examiner can normally be reached on M-F 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (571) 272-4210. The fax phone

Art Unit: 2188

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary J Portka
Primary Examiner
Art Unit 2188

December 9, 2005



GARY PORTKA
PRIMARY EXAMINER